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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,483	02/13/2007	Hiroomo Kuwahara (Deceased)	KAS.074	3149
48234 7590 07/06/2010 MEREK, BLACKMON & VOORHEES, LLC 673 S. WASHINGTON ST ALEXANDRIA, VA 22314				
EXAMINER				
REIS, RYAN ALEXANDER				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
07/06/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,483

Applicant(s)

KUWAHARA (DECEASED) ET AL.

Examiner

RYAN REIS

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date 01/19/2010 and 06/21/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,661,150 to Birkenmaier (Birkenmaier).

As to claim 4, Birkenmaier discloses a spray gun having a paint jetting part (at 61) for jetting pressure paint in atomized state and air jetting means (at end of 49) for forming a covering air flow surrounding the periphery of atomized paint jetted from the paint jetting part, whereby the pressure paint is atomized by friction to air outside the paint jetting part, comprising: a body frame (1) having a length, a front end (at 29), a rear end (at 11), and an air intake (15) adjacent to the rear end for receiving compressed air; an air ventilation path (from 9 through 5 to 49; see Figures 1, 3 and 9) for flowing the compressed air from the air intake to the air jetting means; an air valve (see page 3, lines 83-112) adjacent to the rear end for opening and closing the air ventilation path, the air jetting means being mounted at the front end of the body frame and having a ring-shaped nozzle (see Figures 5 and 6) having a central axis and nozzle holes (at ends of 49) terminating at an outer surface of the nozzle (at 53; see Figure 7), the nozzle holes being circumferentially spaced from one another in the ring-shaped

nozzle, each of the nozzle holes having a central axis that is rotated around a line extending radially from the central axis of the ring-shaped nozzle (nozzle holes are arranged equidistantly from the central axis along a circumference) and is inclined relative to the central axis of the ring-shaped nozzle in the circumferential direction of the ring-shaped nozzle at a fixed pitch (see Figure 7), the nozzle holes receiving air from the air ventilation path and guiding the air to rotate around the center of the ring-shaped nozzle; the paint jetting part including a paint valve (59) mounted at the center of the ring-shaped nozzle, the paint valve extending forwardly from the front end of the body frame to a paint outlet (at 61) that is positioned forward of the nozzle holes of the ring-shaped nozzle of the air jetting means (see Figures 3, 4, 5 and 7); a lever operating member (95) mounted between the front end and the rear end of the body frame for human operation; and an interlocking means (97 and 99) responsive to operation of the lever operating member for opening and closing both the air valve and the paint valve (see page 4, lines 39-50). Birkenmaier does not expressly disclose more than two nozzle holes.

However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have used more than two nozzle holes on the device of Birkenmaier, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

As to claim 5, Birkenmaier discloses a bar prehension part (11) extending along and rearward of the lever operating member and having a hollow cylindrical member (see hollow portion in Figures 1 and 9) and a connecting member (13) to be connected to a paint feeding hose (7), whereby the pressure paint from the feeding hose passes through the hollow cylindrical member and reaches the paint valve (via 3 and 27), the bar prehension part adapted to be grasped together with the lever operating member.

As to claim 6, Birkenmaier discloses an air intake (15) for the air ventilation path, the air intake being positioned rearward of the bar prehension part (see Figure 1; the term "rearward" is given its dictionary definition of "located in, near, or toward the rear").

Response to Arguments

3. Applicant's arguments with respect to claims 4-6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the Birkenmaier reference does not show the nozzle holes rotated around a line extending radially from the central axis. The examiner respectfully disagrees. The nozzle holes of Birkenmaier are arranged circumferentially around the central axis as seen in Figures 3-5 and 7.

Applicant argues that the air intake of Birkenmaier is not rearward of the bar prehension part. The examiner respectfully disagrees. The air intake of Birkenmaier is below the end of the bar prehension part.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN REIS whose telephone number is (571)270-5060.

The examiner can normally be reached on Monday through Friday 8:00am to 6:00pm EST.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RR/
Examiner, Art Unit 3752
06/30/2010

/Len Tran/
Supervisory Patent Examiner, Art Unit 3752